IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3738 OF 2004
IN
CRIMINAL APPEAL NO.1044 OF 2004

The State of Maharashtra ...Applicant

Vs.

Narsinh Nivruttirav Gaikwad ...Respondent

Shri Rajesh More, A.P.P for the Applicant.

Shri M.S.Mohite, for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 13, 2006.

P.C.:

1. This Application for condonation of delay of 341 days was heard by this court on 01st September, 2006. As this court was not satisfied with the explanation for delay offered in the Application, time of two weeks was granted to file additional affidavit. On 22nd September, 2006, the learned A.P.P sought further time to file additional affidavit. Further time was granted as a last chance till 03rd October, 2006. On 07th October, 2006 further time was granted till today by way of indulgence. By order dated 07th October, 2006, it was made clear that the explanation which is offered in the Application was not sufficient to explain the delay. The learned A.P.P states that the concerned Public Prosecutor has not come forward to

file affidavit. In view of the orders dated 22nd September, 2006 and 07th October, 2006, further time cannot be granted to file additional affidavit.

2. The order of acquittal has been passed on 28th March, 2003. Application for certified copy was filed on 26th June, 2003 and the certified copy was ready on 27th June, 2003. The certified copy was delivered on 08th July, 2003. Though the last date for preferring Appeal was 28th June, 2003, on 17th July, 2004 the District Government Pleader, Satara forwarded a proposal to the Law and Judiciary Department, Mantralay recommending filing of an Appeal. The Government of Maharashtra issued resolution dated 28th July, 2004 which was received by the office of the Public Prosecutor, High Court on 31st July, 2004. The Appeal alongwith this Application was filed on 01st September, 2004. In this Application, though there is a valid explanation for delay from 01st August, 2004 to 01st September, 2004, the delay of more than one year on the part of the District Government Pleader, Satara in forwarding the proposal for preferring an Appeal has remained completely unexplained. As narrated earlier, certified copy of the impugned order was received on 08th July, 2003. However, the District Government

Pleader, Satara forwarded the proposal only on 17th July, 2004. As this gross delay is not explained, no case is made out for condonation of delay. Application is rejected.

JUDGE